

HOUSE BILL 93

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11r0398
CF SB 592

By: **Delegates Cardin, Rosenberg, Barkley, Bobo, Carr, Frick, Healey, Hixson, Howard, Ivey, Kaiser, Lafferty, Lee, Luedtke, Morhaim, Stein, and F. Turner**

Introduced and read first time: January 24, 2011
Assigned to: Ways and Means

Committee Report: Favorable with amendments
House action: Adopted
Read second time: March 20, 2011

CHAPTER _____

1 AN ACT concerning

2 **Election Law – Independent Expenditures and Electioneering**
3 **Communications – Reporting**

4 FOR the purpose of altering the definition of “independent expenditure” ~~to include~~
5 ~~independent expenditures relating to ballot issues~~; authorizing the State Board
6 of Elections to audit certain independent expenditure reports and certain
7 electioneering communication reports; requiring a person to file an independent
8 expenditure or electioneering communication report on a certain date when the
9 person makes aggregate ~~independent~~ expenditures of more than a certain
10 amount in an election cycle on ~~campaign material that is a public~~
11 ~~communication~~ certain communications; requiring a person who files an
12 independent expenditure or electioneering communication report to file an
13 additional ~~independent expenditure~~ report on a certain date when the person
14 makes aggregate ~~independent~~ expenditures of more than a certain amount on
15 ~~campaign material that is a public communication~~ certain communications
16 following the closing date of the person’s previous independent expenditure or
17 electioneering communication report; requiring an independent expenditure or
18 electioneering communication report to cover certain periods; requiring an
19 independent expenditure or electioneering communication report to include
20 certain information; providing that a person is considered to have made an
21 independent expenditure or disbursement for electioneering communications if
22 the person has executed a contract to make an independent ~~expenditure~~
23 expenditure or disbursement for electioneering communications; requiring that

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 certain costs of creating and disseminating campaign material be considered in
 2 making a certain determination under this Act; requiring the ~~highest ranking~~
 3 ~~official of~~ treasurer or other individual designated by an entity required to file
 4 an independent expenditure or electioneering communication report to sign the
 5 report and be responsible for filing the report; subjecting an individual who fails
 6 to file properly an independent expenditure or electioneering communication
 7 report to certain sanctions; requiring an entity that files an independent
 8 expenditure or electioneering communication report to include certain
 9 information concerning independent expenditures or electioneering
 10 communications in ~~any regular, periodic report it submits to its shareholders,~~
 11 ~~members, or donors on its finances or activities; requiring an entity that files an~~
 12 ~~independent expenditure report to post a~~ a certain report distributed to certain
 13 individuals or post a certain hyperlink on any Internet site ~~if~~ the entity
 14 maintains ~~to the Internet site where the entity's independent expenditure~~
 15 ~~report information is publicly available for a certain period of time; requiring a~~
 16 person required to file an independent expenditure or electioneering
 17 communication report under this Act to keep certain records for a certain period
 18 of time; authorizing the State Board of Elections to adopt regulations as
 19 necessary to implement this Act; providing for ~~the application of this Act, a~~
 20 ~~delayed effective date; making the provisions of this Act severable; defining~~
 21 certain terms; and generally relating to reporting of independent expenditures
 22 and electioneering communications.

23 BY repealing and reenacting, without amendments,
 24 Article – Election Law
 25 Section 1–101(k)
 26 Annotated Code of Maryland
 27 (2010 Replacement Volume)

28 BY repealing and reenacting, with amendments,
 29 Article – Election Law
 30 Section 1–101(bb) and 2–102(b)(5)
 31 Annotated Code of Maryland
 32 (2010 Replacement Volume)

33 BY adding to
 34 Article – Election Law
 35 Section 13–306 and 13–307
 36 Annotated Code of Maryland
 37 (2010 Replacement Volume)

38 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
 39 MARYLAND, That the Laws of Maryland read as follows:

40 **Article – Election Law**

41 1–101.

1 (k) (1) “Campaign material” means any material that:

2 (i) contains text, graphics, or other images;

3 (ii) relates to a candidate, a prospective candidate, or the
4 approval or rejection of a question; and

5 (iii) is published or distributed.

6 (2) “Campaign material” includes:

7 (i) material transmitted by or appearing on the Internet or
8 other electronic medium; and

9 (ii) an oral commercial campaign advertisement.

10 (bb) **(1)** “Independent expenditure” means an expenditure by a person ~~to~~
11 ~~aid or promote~~ **EXPRESSLY ADVOCATING** the success or defeat of a **CLEARLY**
12 **IDENTIFIED** candidate **OR BALLOT ISSUE** if the expenditure is not made in
13 coordination with, or at the request or suggestion of, [the] A candidate, a campaign
14 finance entity of [the] A candidate, [or] an agent of [the] A candidate, **OR A BALLOT**
15 **ISSUE COMMITTEE.**

16 **(2) FOR PURPOSES OF THIS SUBSECTION, “CLEARLY IDENTIFIED”**
17 **MEANS:**

18 **(I) THE NAME OF THE CANDIDATE APPEARS;**

19 **(II) A PHOTOGRAPH OR DRAWING OF THE CANDIDATE**
20 **APPEARS; OR**

21 **(III) THE IDENTITY OF THE CANDIDATE OR BALLOT ISSUE IS**
22 **APPARENT BY UNAMBIGUOUS REFERENCE.**

23 2-102.

24 (b) In exercising its authority under this article and in order to ensure
25 compliance with this article and with any requirements of federal law, the State Board
26 shall:

27 (5) receive, and in its discretion audit, campaign finance reports,
28 INDEPENDENT EXPENDITURE REPORTS FILED UNDER § 13-306 OF THIS
29 ARTICLE, AND ELECTIONEERING COMMUNICATION REPORTS FILED UNDER §
30 13-307 OF THIS ARTICLE;

1 **13-306.**

2 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE
3 MEANINGS INDICATED.

4 (2) ~~“CONTRIBUTION~~ “DONATION” MEANS THE GIFT OR TRANSFER,
5 OR PROMISE OF GIFT OR TRANSFER, OF MONEY OR OTHER THING OF VALUE TO
6 A PERSON THAT IS MADE FOR THE PURPOSE OF FURTHERING INDEPENDENT
7 EXPENDITURES.

8 (3) “MASS MAILING” MEANS A MAILING BY UNITED STATES MAIL
9 OR FACSIMILE OF MORE THAN 500 PIECES OF MAIL MATTER OF AN IDENTICAL
10 OR SUBSTANTIALLY SIMILAR NATURE WITHIN ANY 30-DAY PERIOD.

11 (4) (I) “PERSON” INCLUDES AN INDIVIDUAL, A PARTNERSHIP,
12 A COMMITTEE, AN ASSOCIATION, A CORPORATION, A LABOR ORGANIZATION, OR
13 ANY OTHER ORGANIZATION OR GROUP OF PERSONS.

14 (II) “PERSON” DOES NOT INCLUDE A CAMPAIGN FINANCE
15 ENTITY ORGANIZED UNDER SUBTITLE 2, PART II OF THIS TITLE.

16 (5) (I) “PUBLIC COMMUNICATION” MEANS A COMMUNICATION
17 BY MEANS OF ANY BROADCAST, CABLE, OR SATELLITE COMMUNICATION,
18 NEWSPAPER, MAGAZINE, OUTDOOR ADVERTISING FACILITY, MASS MAILING, OR
19 TELEPHONE BANK TO THE GENERAL PUBLIC, OR ANY OTHER FORM OF GENERAL
20 PUBLIC POLITICAL ADVERTISING.

21 (II) “PUBLIC COMMUNICATION” DOES NOT INCLUDE:

22 1. A NEWS STORY, A COMMENTARY, OR AN
23 EDITORIAL DISSEMINATED BY A ~~BONA FIDE NEWS MEDIA ORGANIZATION~~
24 BROADCASTING STATION, INCLUDING A CABLE TELEVISION OPERATOR,
25 PROGRAMMER, OR PRODUCER, SATELLITE TELEVISION OR RADIO PROVIDER,
26 WEB SITE, NEWSPAPER, MAGAZINE, OR OTHER PERIODICAL PUBLICATION,
27 INCLUDING ANY INTERNET OR ELECTRONIC PUBLICATION, THAT IS NOT
28 CONTROLLED BY A CANDIDATE OR POLITICAL PARTY; OR

29 2. A CANDIDATE DEBATE OR FORUM.

30 (6) “TELEPHONE BANK” MEANS MORE THAN 500 TELEPHONE
31 CALLS OF AN IDENTICAL OR SUBSTANTIALLY SIMILAR NATURE WITHIN ANY
32 30-DAY PERIOD.

1 **(B) ~~A PERSON SHALL FILE AN INDEPENDENT EXPENDITURE REPORT AS~~**
2 **~~REQUIRED IN THIS SECTION FOLLOWING THE DATE ON WHICH THE~~ AFTER A**
3 **PERSON MAKES AGGREGATE INDEPENDENT EXPENDITURES OF \$10,000 OR**
4 **MORE IN AN ELECTION CYCLE FOR CAMPAIGN MATERIAL THAT IS A PUBLIC**
5 **COMMUNICATION, THE PERSON SHALL FILE AN INDEPENDENT EXPENDITURE**
6 **REPORT AS REQUIRED IN THIS SECTION.**

7 **(C) (1) IF THE CAMPAIGN MATERIAL RELATES TO A CANDIDATE, THE**
8 **PERSON SHALL FILE AN INDEPENDENT EXPENDITURE REPORT WITH THE STATE**
9 **BOARD ON THE NEXT DATE A CAMPAIGN FINANCE ENTITY OF A CANDIDATE IS**
10 **REQUIRED TO FILE A CAMPAIGN FINANCE REPORT UNDER § 13-309 OF THIS**
11 **SUBTITLE.**

12 **(2) IF THE CAMPAIGN MATERIAL RELATES TO A BALLOT ISSUE,**
13 **THE PERSON SHALL FILE AN INDEPENDENT EXPENDITURE REPORT WITH THE**
14 **STATE BOARD ON THE NEXT DATE A BALLOT ISSUE COMMITTEE IS REQUIRED**
15 **TO FILE A CAMPAIGN FINANCE REPORT UNDER § 13-309 OF THIS SUBTITLE.**

16 **(3) AN INDEPENDENT EXPENDITURE REPORT FILED UNDER THIS**
17 **SUBSECTION SHALL INCLUDE THE INFORMATION REQUIRED BY SUBSECTION (E)**
18 **OF THIS SECTION FOR THE PERIOD FROM THE BEGINNING OF THE ELECTION**
19 **CYCLE THROUGH THE LAST DAY OF THE REPORTING PERIOD UNDER § 13-312**
20 **OF THIS SUBTITLE THAT PRECEDES THE REPORT FILING DATE.**

21 **(D) (1) A PERSON WHO FILES AN INDEPENDENT EXPENDITURE**
22 **REPORT UNDER SUBSECTION (C) OF THIS SECTION SHALL FILE AN ADDITIONAL**
23 **INDEPENDENT EXPENDITURE REPORT FOLLOWING ~~EACH~~ A DATE ON WHICH THE**
24 **PERSON MAKES AGGREGATE INDEPENDENT EXPENDITURES OF \$10,000 OR**
25 **MORE FOR CAMPAIGN MATERIAL THAT IS A PUBLIC COMMUNICATION**
26 **FOLLOWING THE CLOSING DATE OF THE PERSON'S PREVIOUS INDEPENDENT**
27 **EXPENDITURE REPORT.**

28 **(2) AN INDEPENDENT EXPENDITURE REPORT UNDER THIS**
29 **SUBSECTION SHALL:**

30 **(I) BE FILED WITH THE STATE BOARD ON THE DATE**
31 **SPECIFIED IN SUBSECTION (C)(1) AND (2) OF THIS SECTION; AND**

32 **(II) INCLUDE THE INFORMATION REQUIRED BY SUBSECTION**
33 **(E) OF THIS SECTION FOR THE PERIOD FROM THE CLOSING DATE OF THE**
34 **PREVIOUS INDEPENDENT EXPENDITURE REPORT THROUGH THE LAST DAY OF**
35 **THE REPORTING PERIOD UNDER § 13-312 OF THIS SUBTITLE THAT PRECEDES**
36 **THE REPORT FILING DATE.**

1 **(E) AN INDEPENDENT EXPENDITURE REPORT SHALL INCLUDE THE**
2 **FOLLOWING INFORMATION:**

3 **(1) THE IDENTITY OF THE PERSON MAKING THE INDEPENDENT**
4 **EXPENDITURES AND OF ANY PERSON EXERCISING DIRECTION OR CONTROL**
5 **OVER THE ACTIVITIES OF THE PERSON MAKING THE INDEPENDENT**
6 **EXPENDITURES;**

7 **(2) THE BUSINESS ADDRESS OF THE PERSON MAKING THE**
8 **INDEPENDENT EXPENDITURES;**

9 **(3) THE AMOUNT AND DATE OF EACH INDEPENDENT**
10 **EXPENDITURE DURING THE PERIOD COVERED BY THE REPORT AND THE**
11 **PERSON TO WHOM THE EXPENDITURE WAS MADE;**

12 **(4) THE CANDIDATE OR BALLOT ISSUE TO WHICH THE**
13 **INDEPENDENT EXPENDITURE RELATES AND WHETHER THE INDEPENDENT**
14 **EXPENDITURE SUPPORTS OR OPPOSES THAT CANDIDATE OR BALLOT ISSUE; AND**

15 **(5) THE IDENTITY OF EACH PERSON WHO MADE A ~~CONTRIBUTION~~**
16 **DONATION TO THE PERSON MAKING THE INDEPENDENT EXPENDITURES DURING**
17 **THE PERIOD COVERED BY THE REPORT.**

18 **(F) FOR PURPOSES OF THIS SECTION, A PERSON SHALL BE**
19 **CONSIDERED TO HAVE MADE AN INDEPENDENT EXPENDITURE IF THE PERSON**
20 **HAS EXECUTED A CONTRACT TO MAKE AN INDEPENDENT EXPENDITURE.**

21 **(G) THE COST OF CREATING AND DISSEMINATING CAMPAIGN**
22 **MATERIAL, INCLUDING ANY DESIGN AND PRODUCTION COSTS, SHALL BE**
23 **CONSIDERED IN DETERMINING THE AGGREGATE AMOUNT OF INDEPENDENT**
24 **EXPENDITURES MADE BY A PERSON FOR CAMPAIGN MATERIAL THAT IS A**
25 **PUBLIC COMMUNICATION UNDER THIS SECTION.**

26 **~~(G)~~ (H) THE HIGHEST-RANKING OFFICIAL OF TREASURER OR OTHER**
27 **INDIVIDUAL DESIGNATED BY AN ENTITY REQUIRED TO FILE AN INDEPENDENT**
28 **EXPENDITURE REPORT UNDER THIS SECTION:**

29 **(1) SHALL SIGN EACH INDEPENDENT EXPENDITURE REPORT; AND**

30 **(2) IS RESPONSIBLE FOR FILING INDEPENDENT EXPENDITURE**
31 **REPORTS IN FULL AND ACCURATE DETAIL.**

32 **~~(H)~~ (I) (1) AN INDIVIDUAL IS SUBJECT TO THE SANCTIONS THAT**
33 **APPLY TO THE RESPONSIBLE OFFICERS OF A CAMPAIGN FINANCE ENTITY**

1 UNDER PART VII OF THIS SUBTITLE FOR FAILURE TO FILE PROPERLY AN
2 INDEPENDENT EXPENDITURE REPORT.

3 (2) THE FAILURE TO PROVIDE ON AN INDEPENDENT
4 EXPENDITURE REPORT ALL OF THE INFORMATION REQUIRED BY THIS SECTION
5 IS DEEMED A FAILURE TO FILE AND RENDERS THE REPORT OVERDUE AS
6 PROVIDED IN § 13-327(B) OF THIS SUBTITLE.

7 ~~(H)~~ (J) (1) AN ENTITY REQUIRED TO FILE AN INDEPENDENT
8 EXPENDITURE REPORT UNDER THIS SECTION ~~THAT SUBMITS REGULAR,~~
9 ~~PERIODIC REPORTS TO ITS SHAREHOLDERS, MEMBERS, OR DONORS ON ITS~~
10 ~~FINANCES OR ACTIVITIES SHALL~~ SHALL DO AT LEAST ONE OF THE FOLLOWING,
11 UNLESS NEITHER ARE APPLICABLE TO THE ENTITY:

12 (I) ~~INCLUDE IN EACH~~ IF THE ENTITY SUBMITS REGULAR,
13 PERIODIC ~~REPORT~~ REPORTS TO ITS SHAREHOLDERS, MEMBERS, OR DONORS,
14 INCLUDE IN EACH REPORT, IN A CLEAR AND CONSPICUOUS MANNER, THE
15 INFORMATION SPECIFIED IN SUBSECTION (E)(3) THROUGH (5) OF THIS SECTION
16 FOR EACH INDEPENDENT EXPENDITURE MADE DURING THE PERIOD COVERED
17 BY THE REPORT THAT MUST BE INCLUDED IN AN INDEPENDENT EXPENDITURE
18 REPORT; ~~AND OR~~

19 (II) IF THE ENTITY MAINTAINS AN INTERNET SITE, POST ON
20 THAT INTERNET SITE A HYPERLINK FROM ITS HOMEPAGE TO THE INTERNET
21 SITE WHERE THE ENTITY'S INDEPENDENT EXPENDITURE REPORT INFORMATION
22 IS PUBLICLY AVAILABLE.

23 (2) AN ENTITY SHALL POST THE HYPERLINK REQUIRED UNDER
24 PARAGRAPH (1)(II) OF THIS SUBSECTION WITHIN 24 HOURS OF THE ENTITY'S
25 INDEPENDENT EXPENDITURE REPORT INFORMATION BEING MADE PUBLICLY
26 AVAILABLE ON THE INTERNET, AND THE HYPERLINK SHALL REMAIN POSTED ON
27 THE ENTITY'S INTERNET SITE UNTIL THE END OF THE ELECTION CYCLE DURING
28 WHICH THE ENTITY FILED AN INDEPENDENT EXPENDITURE REPORT.

29 (K) (1) A PERSON REQUIRED TO FILE AN INDEPENDENT
30 EXPENDITURE REPORT UNDER THIS SECTION SHALL KEEP DETAILED AND
31 ACCURATE RECORDS OF:

32 (I) ALL INDEPENDENT EXPENDITURES MADE BY THE
33 PERSON FOR CAMPAIGN MATERIAL THAT IS A PUBLIC COMMUNICATION; AND

34 (II) ALL DONATIONS RECEIVED BY THE PERSON THAT ARE
35 FOR THE PURPOSE OF FURTHERING INDEPENDENT EXPENDITURES FOR
36 CAMPAIGN MATERIAL THAT IS A PUBLIC COMMUNICATION.

1 **(2) RECORDS REQUIRED TO BE KEPT UNDER THIS SUBSECTION**
 2 **SHALL BE PRESERVED FOR 2 YEARS AFTER THE END OF THE ELECTION CYCLE**
 3 **IN WHICH THE PERSON FILED THE INDEPENDENT EXPENDITURE REPORT TO**
 4 **WHICH THE RECORDS RELATE.**

5 ~~(J)~~ **(L) THE STATE BOARD MAY ADOPT REGULATIONS AS NECESSARY**
 6 **TO IMPLEMENT THE REQUIREMENTS OF THIS SECTION.**

7 **13-307.**

8 **(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE**
 9 **MEANINGS INDICATED.**

10 **(2) “DONATION” MEANS THE GIFT OR TRANSFER, OR PROMISE OF**
 11 **GIFT OR TRANSFER, OF MONEY OR OTHER THING OF VALUE TO A PERSON THAT**
 12 **IS MADE FOR THE PURPOSE OF FURTHERING ELECTIONEERING**
 13 **COMMUNICATIONS.**

14 **(3) (I) “ELECTIONEERING COMMUNICATION” MEANS A**
 15 **BROADCAST, CABLE, OR SATELLITE COMMUNICATION THAT:**

16 **1. REFERS TO A CLEARLY IDENTIFIED CANDIDATE**
 17 **OR BALLOT ISSUE;**

18 **2. IS MADE WITHIN 60 DAYS OF AN ELECTION DAY ON**
 19 **WHICH THE CANDIDATE OR BALLOT ISSUE IS ON THE BALLOT; AND**

20 **3. IS CAPABLE OF BEING RECEIVED BY 50,000 OR**
 21 **MORE INDIVIDUALS IN THE CONSTITUENCY WHERE THE CANDIDATE OR BALLOT**
 22 **ISSUE IS ON THE BALLOT.**

23 **(II) “ELECTIONEERING COMMUNICATION” DOES NOT**
 24 **INCLUDE:**

25 **1. AN INDEPENDENT EXPENDITURE;**

26 **2. A NEWS STORY, A COMMENTARY, OR AN**
 27 **EDITORIAL DISSEMINATED BY A BROADCASTING STATION, INCLUDING A CABLE**
 28 **TELEVISION OPERATOR, PROGRAMMER, OR PRODUCER, OR SATELLITE**
 29 **TELEVISION OR RADIO PROVIDER THAT IS NOT CONTROLLED BY A CANDIDATE**
 30 **OR POLITICAL PARTY;**

31 **3. A CANDIDATE DEBATE OR FORUM; OR**

1 4. A COMMUNICATION THAT PROPOSES A
2 COMMERCIAL TRANSACTION.

3 (III) FOR PURPOSES OF THIS PARAGRAPH, “CLEARLY
4 IDENTIFIED” MEANS:

5 1. THE NAME OF A CANDIDATE APPEARS;

6 2. A PHOTOGRAPH OR DRAWING OF A CANDIDATE
7 APPEARS; OR

8 3. THE IDENTITY OF A CANDIDATE OR BALLOT ISSUE
9 IS APPARENT BY UNAMBIGUOUS REFERENCE.

10 (4) (I) “PERSON” INCLUDES AN INDIVIDUAL, A PARTNERSHIP,
11 A COMMITTEE, AN ASSOCIATION, A CORPORATION, A LABOR ORGANIZATION, OR
12 ANY OTHER ORGANIZATION OR GROUP OF PERSONS.

13 (II) “PERSON” DOES NOT INCLUDE A CAMPAIGN FINANCE
14 ENTITY ORGANIZED UNDER SUBTITLE 2, PART II OF THIS TITLE.

15 (B) AFTER A PERSON MAKES AGGREGATE DISBURSEMENTS OF \$10,000
16 OR MORE IN AN ELECTION CYCLE FOR ELECTIONEERING COMMUNICATIONS,
17 THE PERSON SHALL FILE AN ELECTIONEERING COMMUNICATION REPORT AS
18 REQUIRED IN THIS SECTION.

19 (C) (1) IF THE ELECTIONEERING COMMUNICATIONS RELATE TO A
20 CANDIDATE, THE PERSON SHALL FILE AN ELECTIONEERING COMMUNICATION
21 REPORT WITH THE STATE BOARD ON THE NEXT DATE A CAMPAIGN FINANCE
22 ENTITY OF A CANDIDATE IS REQUIRED TO FILE A CAMPAIGN FINANCE REPORT
23 UNDER § 13-309 OF THIS SUBTITLE.

24 (2) IF THE ELECTIONEERING COMMUNICATIONS RELATE TO A
25 BALLOT ISSUE, THE PERSON SHALL FILE AN ELECTIONEERING COMMUNICATION
26 REPORT WITH THE STATE BOARD ON THE NEXT DATE A BALLOT ISSUE
27 COMMITTEE IS REQUIRED TO FILE A CAMPAIGN FINANCE REPORT UNDER §
28 13-309 OF THIS SUBTITLE.

29 (3) AN ELECTIONEERING COMMUNICATION REPORT FILED
30 UNDER THIS SUBSECTION SHALL INCLUDE THE INFORMATION REQUIRED BY
31 SUBSECTION (E) OF THIS SECTION FOR THE PERIOD FROM THE BEGINNING OF
32 THE ELECTION CYCLE THROUGH THE LAST DAY OF THE REPORTING PERIOD
33 UNDER § 13-312 OF THIS SUBTITLE THAT PRECEDES THE REPORT FILING DATE.

1 **(D) (1) A PERSON WHO FILES AN ELECTIONEERING COMMUNICATION**
2 **REPORT UNDER SUBSECTION (C) OF THIS SECTION SHALL FILE AN ADDITIONAL**
3 **ELECTIONEERING COMMUNICATION REPORT FOLLOWING A DATE ON WHICH**
4 **THE PERSON MAKES AGGREGATE DISBURSEMENTS OF \$10,000 OR MORE FOR**
5 **ELECTIONEERING COMMUNICATIONS FOLLOWING THE CLOSING DATE OF THE**
6 **PERSON'S PREVIOUS ELECTIONEERING COMMUNICATION REPORT.**

7 **(2) AN ELECTIONEERING COMMUNICATION REPORT UNDER THIS**
8 **SUBSECTION SHALL:**

9 **(I) BE FILED WITH THE STATE BOARD ON THE DATE**
10 **SPECIFIED IN SUBSECTION (C)(1) AND (2) OF THIS SECTION; AND**

11 **(II) INCLUDE THE INFORMATION REQUIRED BY SUBSECTION**
12 **(E) OF THIS SECTION FOR THE PERIOD FROM THE CLOSING DATE OF THE**
13 **PREVIOUS ELECTIONEERING COMMUNICATION REPORT THROUGH THE LAST**
14 **DAY OF THE REPORTING PERIOD UNDER § 13-312 OF THIS SUBTITLE THAT**
15 **PRECEDES THE REPORT FILING DATE.**

16 **(E) AN ELECTIONEERING COMMUNICATION REPORT SHALL INCLUDE**
17 **THE FOLLOWING INFORMATION:**

18 **(1) THE IDENTITY OF THE PERSON MAKING DISBURSEMENTS FOR**
19 **ELECTIONEERING COMMUNICATIONS AND OF ANY PERSON EXERCISING**
20 **DIRECTION OR CONTROL OVER THE ACTIVITIES OF THE PERSON MAKING THE**
21 **DISBURSEMENTS FOR ELECTIONEERING COMMUNICATIONS;**

22 **(2) THE BUSINESS ADDRESS OF THE PERSON MAKING THE**
23 **DISBURSEMENTS FOR ELECTIONEERING COMMUNICATIONS;**

24 **(3) THE AMOUNT AND DATE OF EACH DISBURSEMENT FOR**
25 **ELECTIONEERING COMMUNICATIONS DURING THE PERIOD COVERED BY THE**
26 **REPORT AND THE PERSON TO WHOM THE DISBURSEMENT WAS MADE;**

27 **(4) THE CANDIDATE OR BALLOT ISSUE TO WHICH THE**
28 **ELECTIONEERING COMMUNICATIONS RELATE;**

29 **(5) THE IDENTITY OF EACH PERSON WHO MADE A DONATION TO**
30 **THE PERSON MAKING THE DISBURSEMENTS FOR ELECTIONEERING**
31 **COMMUNICATIONS DURING THE PERIOD COVERED BY THE REPORT.**

32 **(F) FOR PURPOSES OF THIS SECTION, A PERSON SHALL BE**
33 **CONSIDERED TO HAVE MADE A DISBURSEMENT FOR AN ELECTIONEERING**

1 COMMUNICATION IF THE PERSON HAS EXECUTED A CONTRACT TO MAKE A
2 DISBURSEMENT FOR AN ELECTIONEERING COMMUNICATION.

3 (G) THE COST OF CREATING AND DISSEMINATING ELECTIONEERING
4 COMMUNICATIONS, INCLUDING ANY DESIGN AND PRODUCTION COSTS, SHALL
5 BE CONSIDERED IN DETERMINING THE AGGREGATE AMOUNT OF
6 DISBURSEMENTS FOR ELECTIONEERING COMMUNICATIONS MADE BY A PERSON
7 UNDER THIS SECTION.

8 (H) THE TREASURER OR OTHER INDIVIDUAL DESIGNATED BY AN ENTITY
9 REQUIRED TO FILE AN ELECTIONEERING COMMUNICATION REPORT UNDER
10 THIS SECTION:

11 (1) SHALL SIGN EACH ELECTIONEERING COMMUNICATION
12 REPORT; AND

13 (2) IS RESPONSIBLE FOR FILING ELECTIONEERING
14 COMMUNICATION REPORTS IN FULL AND ACCURATE DETAIL.

15 (I) (1) AN INDIVIDUAL IS SUBJECT TO THE SANCTIONS THAT APPLY
16 TO THE RESPONSIBLE OFFICERS OF A CAMPAIGN FINANCE ENTITY UNDER PART
17 VII OF THIS SUBTITLE FOR FAILURE TO FILE PROPERLY AN ELECTIONEERING
18 COMMUNICATION REPORT.

19 (2) THE FAILURE TO PROVIDE ON AN ELECTIONEERING
20 COMMUNICATION REPORT ALL OF THE INFORMATION REQUIRED BY THIS
21 SECTION IS DEEMED A FAILURE TO FILE AND RENDERS THE REPORT OVERDUE
22 AS PROVIDED IN § 13-327(B) OF THIS SUBTITLE.

23 (J) (1) AN ENTITY REQUIRED TO FILE AN ELECTIONEERING
24 COMMUNICATION REPORT UNDER THIS SECTION SHALL DO AT LEAST ONE OF
25 THE FOLLOWING, UNLESS NEITHER ARE APPLICABLE TO THE ENTITY:

26 (I) IF THE ENTITY SUBMITS REGULAR, PERIODIC REPORTS
27 TO ITS SHAREHOLDERS, MEMBERS, OR DONORS, INCLUDE IN EACH REPORT IN A
28 CLEAR AND CONSPICUOUS MANNER, THE INFORMATION SPECIFIED IN
29 SUBSECTION (E)(3) THROUGH (5) OF THIS SECTION FOR EACH DISBURSEMENT
30 FOR ELECTIONEERING COMMUNICATIONS MADE DURING THE PERIOD COVERED
31 BY THE REPORT THAT MUST BE INCLUDED IN AN ELECTIONEERING
32 COMMUNICATION REPORT; OR

33 (II) IF THE ENTITY MAINTAINS AN INTERNET SITE, POST ON
34 THAT INTERNET SITE A HYPERLINK FROM ITS HOMEPAGE TO THE INTERNET

1 SITE WHERE THE ENTITY'S ELECTIONEERING COMMUNICATION REPORT
2 INFORMATION IS PUBLICLY AVAILABLE.

3 (2) (I) AN ENTITY SHALL POST THE HYPERLINK REQUIRED
4 UNDER PARAGRAPH (1)(II) OF THIS SUBSECTION WITHIN 24 HOURS OF THE
5 ENTITY'S ELECTIONEERING COMMUNICATION REPORT INFORMATION BEING
6 MADE PUBLICLY AVAILABLE ON THE INTERNET.

7 (II) THE HYPERLINK SHALL REMAIN POSTED ON THE
8 ENTITY'S INTERNET SITE UNTIL THE END OF THE ELECTION CYCLE DURING
9 WHICH THE ENTITY FILED AN ELECTIONEERING COMMUNICATION REPORT.

10 (K) (1) A PERSON REQUIRED TO FILE AN ELECTIONEERING
11 COMMUNICATION REPORT UNDER THIS SECTION SHALL KEEP DETAILED AND
12 ACCURATE RECORDS OF:

13 (I) ALL DISBURSEMENTS FOR ELECTIONEERING
14 COMMUNICATIONS MADE BY THE PERSON; AND

15 (II) ALL DONATIONS RECEIVED BY THE PERSON THAT ARE
16 FOR THE PURPOSE OF FURTHERING ELECTIONEERING COMMUNICATIONS.

17 (2) RECORDS REQUIRED TO BE KEPT UNDER THIS SUBSECTION
18 SHALL BE PRESERVED UNTIL 2 YEARS AFTER THE END OF THE ELECTION CYCLE
19 IN WHICH THE PERSON FILED THE INDEPENDENT EXPENDITURE REPORT TO
20 WHICH THE RECORDS RELATE.

21 (L) THE STATE BOARD MAY ADOPT REGULATIONS AS NECESSARY TO
22 IMPLEMENT THE REQUIREMENTS OF THIS SECTION.

23 ~~SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be~~
24 ~~construed to apply retroactively and shall be applied to independent expenditures~~
25 ~~made on or after January 1, 2011.~~

26 SECTION 2. AND BE IT FURTHER ENACTED, That if any provision of this
27 Act or the application thereof to any person or circumstance is held invalid for any
28 reason in a court of competent jurisdiction, the invalidity does not affect other
29 provisions or any other application of this Act which can be given effect without the
30 invalid provision or application, and for this purpose the provisions of this Act are
31 declared severable.

32 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
33 June December 1, 2011.